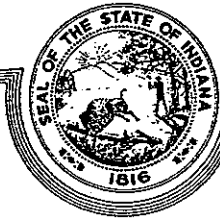


STATE OF INDIANA



INDIANAPOLIS

STATE BOARD OF HEALTH
AN EQUAL OPPORTUNITY EMPLOYER

Address Reply to:
Indiana State Board of Health
1330 West Michigan Street
P. O. Box 1964
Indianapolis, IN 46206-1964

October 22, 1985

Mr. William Miner, Chief
Hazardous Waste Enforcement Branch
U.S. EPA, Region V
230 South Dearborn Street
Chicago, IL 60604

Dear Mr. Miner:

Re: Enforcement Referral
Gary Development, Inc.
Gary, Indiana

Enclosed is a hazardous waste enforcement referral from the Enforcement Section of our Hazardous Waste Management Branch. Mr. Thomas Russell of our staff has discussed the Gary Development, Inc., situation with Mr. Joe Boyle of your office and it was mutually agreed that the Resource Conservation and Recovery Act violations at this facility should be handled by U.S. EPA.

It is our understanding that U.S. EPA is preparing to send this facility a compliance order for failure to have submitted their Part B permit application as requested. Due to this, and the fact that our Geology Section is currently understaffed and unable to complete groundwater monitoring plan reviews in a timely manner, it was decided that U.S. EPA should be the lead agency in resolving the violations at this facility.

If you or your staff have any questions regarding this matter, please contact Mr. Russell of our Enforcement Section at AC 317/243-5012.

Very truly yours,

David D. Lamm
David D. Lamm, Director
Division of Land Pollution Control

TLR/tr

Enclosures

cc: Ms. Sally K. Swanson, U.S. EPA, Region V
Ms. Karyl Schmidt
Mr. Ted Warner
Ms. Pat Vogtman, U.S. EPA, Region V

ENFORCEMENT SENSITIVE
THIS DOCUMENT IS NOT FOR PUBLIC RELEASE OR QUOTE
OSHW ENFORCEMENT STATUS REPORT

FACILITY: Gary Development Co., Inc.
LOCATION: Gary, Lake Co.
EPA ID NO.: IND 077 005 916
CASE NO.: 00284 (and 00135)

CURRENT VIOLATION CLASS: _____
INITIAL EVALUATION DATE: 6-17-85
REFERRAL DATE: _____
CLASS I RTC DATE: _____
CASE RTC DATE: _____

ENFORCEMENT ACTION REQUIRED/TAKEN:
DATE (IF ISSUED)

1.	()	COMPLAINT	<u>1</u>	<u>1</u>
2.	()	NOV	<u>1</u>	<u>1</u>
3.	()	LOW	<u>1</u>	<u>1</u>
4.	()	NOI/LOI	<u>1</u>	<u>1</u>
5.	()	CIVIL REFERRAL	<u>1</u>	<u>1</u>

DATE (IF ISSUED)

6.	()	CIVIL FILING	<u>1</u>	<u>1</u>
7.	()	CRIMINAL REFERRAL	<u>1</u>	<u>1</u>
8.	()	CRIMINAL FILING	<u>1</u>	<u>1</u>
9.	()	DISMISSAL	<u>1</u>	<u>1</u>
10.	()	NO ACTION REQUIRED	<u>1</u>	<u>1</u>

SUMMARY OF ISSUES/RESPONSE:

Referred to EPA on 10-22-85

() ADD'L REMARKS ON BACK

RECOMMENDATIONS/PENDING CIRCUMSTANCES:

1.	()	RETURNED TO COMPLIANCE
2.	()	AWAITING COMPANY'S RESPONSE
3.	()	AWAITING COM. MON./TECHNICAL REVIEW
4.	()	AWAITING ADD'L INSPECTION/SAMPLING EVENT
5.	()	AWAITING RETURN TO COMPLIANCE INSPECTION
6.	()	ESCALATING ENFORCEMENT
7.	()	ADDITIONAL TIME REQUESTED

SPECIFY: _____

EPA Referral

Ruth A. Ireland / 1-22-92
ENFORCEMENT STAFF/DATE

SECTION CHIEF/DATE

ENFORCEMENT SENSITIVEHAZARDOUS WASTE
ENFORCEMENT REFERRAL

TO: William Miner, Chief
Hazardous Waste Enforcement Branch
U.S. EPA, Region V

FROM: David D. Lamm, Director *David D. Lamm*
Division of Land Pollution Control
Indiana State Board of Health

TRACKING INFORMATION (or submit CMEL)

Originators Name: Ted F. Warner

Initial Evaluation: 6/17/85

Next (Follow-up) Evaluation Date: _____

Evaluation Type (3 letter code): SCE

Evaluation Comment (60 character limit): Facility desires RCRA closure

FACILITY OR HANDLER DESCRIPTION:

Gary Development Company, Inc.

479 North Cline Avenue

P.O. Box 6056

Gary, Indiana 46406

Contact Person: Lawrence Hagen, Vice-President

EPA I.D. No. IND 077005916

The facility submitted a Part A permit application on November 18, 1980, and claims to have submitted notification to U.S. EPA, although U.S. EPA has no record of receiving the notification. U.S. EPA accordingly has stated the facility does not have interim status. The Part A listed 100 acre feet of landfill capacity and disposal availability for K054, D001, and D002 wastes.

The facility is a conventional hazardous waste landfill, OPP. No. 45-2, which has had some compliance problems with our Solid Waste Management Branch (see Hearing Officer's Findings and Recommended Order in Cause No. N-146, enclosed). As a conventional landfill, the facility has a limited groundwater monitoring program pursuant to 330 IAC 4, but no RCRA Subpart F program has been initiated at the facility.

SUMMARY OF CASE OR REFERRAL:

An inspection was conducted at the facility on June 17, 1985, by Messrs. Ted Warner and Tom Russell of the Division of Land Pollution Control. The facility has not attempted to meet any applicable RCRA or 320 IAC 4 requirements. The receipt and deposition of certain hazardous wastes at the facility was confirmed. It is Mr. Hagen's

-2-

desire to go through closure and get out of the RCRA program. During the inspection interview, Mr. Hagen repeatedly replied in the negative to queries regarding their compliance with RCRA requirements. None of the required paperwork, i.e., waste analysis plan, operating record, contingency plan, closure plan, was available for inspection, nor had it been developed.

Mr. Hagen stated they had received 28 to 33 loads of paint sludge from American Chemical as F007 in 1981 or 1982 and had also received broken battery casings and neutralized acids from U.S.S. Lead. He further stated that any hazardous wastes received were commingled with conventional refuse for disposal. The facility is not currently accepting hazardous wastes for disposal.

When asked about compliance with Subpart F at the facility, Mr. Hagen stated they had only a conventional groundwater monitoring program consisting of four wells located to the north, south, east, and west of the landfill proper and that these were sampled only for solid waste parameters.

In summary, EPA has not granted interim status to this facility, yet they have accepted hazardous wastes for disposal, they have not attempted to comply with federal or State hazardous waste operating requirements, and desire to get out of the hazardous waste management program. A Compliance Order is recommended requiring the development of a closure plan and, following its approval, that the facility implement the closure plan as approved.

The facility's Part B permit application has been called in by U.S. EPA, but, to our knowledge, no submittal was made as required.

SPECIFIC VIOLATIONS OR FINDINGS:

1. Violation of 320 IAC 4-6 (40 CFR 265):

The inspection of this facility revealed total noncompliance with all of 40 CFR 265, with the exception of 40 CFR 265.14. (Any federal action should also cite 40 CFR 270 as permitting violations.)

RECOMMENDED ORDER OR RESOLUTION:

1. That the facility be compelled to develop written closure and post-closure care plans within sixty (60) days of receipt of the Order and submit it for approval. These plans must include all of the applicable requirements of 40 CFR 265, Subpart G, and 40 CFR 265.310 (320 IAC 4.1-28-4 and 320 IAC 4.1-21).
2. That within sixty (60) days of approval of the closure and post-closure care plans, closure shall be implemented in accordance with the approved plan.
3. That a civil penalty be assessed.

-3-

OTHER RECOMMENDATIONS AND REMARKS:

U.S. EPA may wish to issue a request for information under Section 3007 to obtain manifests for waste disposed of at Gary Development by U.S.S. Lead Refinery, Inc. U.S.S. Lead did not voluntarily produce those manifests at our request. Copies of manifests obtained from American Chemical Service, Inc., are attached.

ATTACHMENTS AND DOCUMENTATION

Part A
Groundwater study
Correspondence
Manifests
Trip Report

TLR/tr
10/17/85

FEB 08 1984

FEB 13 9 03 AM '84
U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES
FEDERAL BUREAU OF INVESTIGATION

John H. Kyle III
Barnes and Thornburg
1313 Merchants Bank Building
Indianapolis, Indiana 46204

Re: Gary Development Landfill
Gary, Indiana

Dear Mr. Kyle:

Thank you for your letter of October 7, 1983, requesting the removal of Gary Development Landfill from the Federal hazardous waste management system. Based upon the information you have supplied, plus other information available to this office, the facility is required to have a Resource Conservation and Recovery Act (RCRA) permit, and may not be withdrawn from the hazardous waste system.

Your request is based upon the quantity of hazardous wastes disposed of at the landfill. RCRA regulations do not provide for waivers of closure or post-closure requirements based upon the quantity of wastes handled. Furthermore, we have learned that your statements concerning the wastes that Gary Development has accepted from American Chemical Service, Inc. are inaccurate in several respects. A recent inspection of American Chemical Service revealed that 32 shipments of hazardous waste, labelled F005, were sent by manifest to Gary Development in 1981. Each shipment was approximately 275 gallons. In addition, we were informed that a number of shipments of the same material were erroneously sent without manifests from November 10, 1980, until early 1981. This contradicts your statement that only four to six loads were received from American Chemical Service.

The hazardous waste number F005 represents certain non-halogenated solvents which are listed as hazardous wastes for the properties of ignitability and toxicity. Our understanding of the process which generates the wastes leads us to believe that any of the hazardous waste types handled by American Chemical Service might be present in the wastes sent to Gary Development. This includes hazardous waste numbers F001, F002, F003, F004, F006, F007, F008, F009, F010, F011, F012, F013, F014, F015, F016, F017, F018, F019, F020, F021, F022, F023, F024, F025, F026, F027, F028, F029, F030, F031, F032, F033, F034, F035, F036, F037, F038, F039, F040, F041, F042, F043, F044, F045, F046, F047, F048, F049, F050, F051, F052, F053, F054, F055, F056, F057, F058, F059, F060, F061, F062, F063, F064, F065, F066, F067, F068, F069, F070, F071, F072, F073, F074, F075, F076, F077, F078, F079, F080, F081, F082, F083, F084, F085, F086, F087, F088, F089, F090, F091, F092, F093, F094, F095, F096, F097, F098, F099, F100, F101, F102, F103, F104, F105, F106, F107, F108, F109, F110, F111, F112, F113, F114, F115, F116, F117, F118, F119, F120, F121, F122, F123, F124, F125, F126, F127, F128, F129, F130, F131, F132, F133, F134, F135, F136, F137, F138, F139, F140, F141, F142, F143, F144, F145, F146, F147, F148, F149, F150, F151, F152, F153, F154, F155, F156, F157, F158, F159, F160, F161, 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Finally, we discovered that the American Chemical Service wastes were not mixed with sand to eliminate ignitability, as your January 24, 1983, letter to George Garland states. The co-mixing of sand and wastes did not begin until late 1981 or early 1982.

With respect to your question concerning the applicability of 40 CFR Parts 264 and 265 to the activities performed by Gary Development Landfill, please find enclosed a copy of the November 22, 1983, Federal Register. This amendment clarifies the applicability of the hazardous waste regulations to existing facilities which fail to qualify for interim status, such as Gary Development. On page 52719, it is stated that "FPA has both the statutory and regulatory authority to apply either the Part 264 general permitting standards or the Part 265 interim status standards to existing facilities which have failed to qualify for interim status." The document sets forth an amendment to 40 CFR 6265.1 which establishes that Part 265 is the appropriate set of standards applicable to facilities such as Gary Development Landfill, until a permit is issued. Since the State of Indiana has received Phase I interim authorization, the Indiana State Board of Health (ISBH) is responsible for administering the interim status standards in lieu of the Federal government. Indiana has clarified the applicability issue by deleting 6265.1(b) in their adoption of Part 265, and inserting language which makes the standards applicable to all hazardous waste facilities regardless of permit status.

Factors which ISBH may consider in approving any closure and post-closure plans submitted by the landfill do include the quantity, types of waste, and methods of management. Because of the landfill's repeated ratings of "unacceptable operation" in State inspections, its location in the Grand Calumet River floodplain, and the actual quantity and nature of American Chemical Service waste disposed of there, we believe that proper closure will involve a design with numerous protective measures.

We have considered the above factors, plus the Agreed Order reached between the Environmental Management Board and Gary Development in early 1983, and have concluded that it is not in the public interest for Gary Development Landfill to be issued an Interim Status Compliance Letter for continued hazardous waste operation. Since the Landfill does not have interim status or a permit, closure and post-closure are required.

In summary, (1) Gary Development Landfill is in violation of RCRA Section 3005, plus 40 CFR 68270.2(c), 270.10(a) and 121.3(z), for disposal of hazardous wastes without a permit; (2) the landfill is subject to regulation under 32:1 Indiana Administrative Code, Article 4; and (3) the landfill must undergo closure pursuant to these regulations to avoid enforcement action by this office.

Please contact Mr. Richard Shandross, at (312) 886-0986, if you have any questions about this matter.

Sincerely yours,

Karl J. Klepitsch, Jr., Chief
Waste Management Branch

Enclosure

cc: Guinn Doyle, ISRM
Jim Traylor, ISRM
Gary Development Landfill

Copy

REFERENCE 57

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MAR 12 1985

SHS-12

Lawrence Hagen, Vice President
Gary Development Company, Incorporated
479 North Cline Avenue
Gary, Indiana 46406

RE: Ground-water Protection Requirements
Gary Development Co., Incorporated
ID# 077005916

Dear Mr. Hagen:

On November 8, 1984, the President of the United States of America signed into law the Hazardous and Solid Waste Amendments of 1984 (HSWA). This new law amends the Resource Conservation and Recovery Act (RCRA), and contains provisions which have far reaching effects on how hazardous wastes are managed in this country.

The purpose of this letter is to inform you of one of the many provisions of the HSWA and how it may affect your facility. This is not a request for submission of your facility's Part E permit application.

A new Subsection (i) was added to Section 3005 of RCRA (HSWA Section 243 (c)) which concerns the applicability of 40 CFR Part 264 Subpart F ground-water protection requirements. This new provision states that any landfill, surface impoundment, land treatment unit or waste pile which receives hazardous waste after July 26, 1982, is now subject to these more stringent ground-water monitoring and response programs upon issuance of a permit. This is applicable to either operating permits or post-closure care permits. Prior to the enactment of the HSWA, the 40 CFR Part 264 Subpart F requirements applied to those facilities which receive hazardous wastes after January 26, 1983.

Please contact Mr. Martin Hammer of my staff at (312) 886-0904, if you have any questions concerning this letter.

Sincerely yours,

Karl J. Kieritsch, Jr.
Chief, Solid Waste Branch

cc: Guinn Doyle, ISDE

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